

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.971/2005
Decided on.12.7.2007

Naresh Kumar

...Petitioner.

Versus

State of H.P. & others.

...Respondents

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?¹.No.

For the petitioner : Mr. Kul Bhushan Khajuria, Advocate.

For the respondents Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan & Ms. Meenakashi Sharma, Deputy Advocate Generals for respondents No. 1 to 4.

Mr. Rajnish Maniktala, Advocate for respondents No. 5 & 6.

Rajiv Sharma, J.

The brief facts necessary for the adjudication of this petition are that the land of the petitioner was acquired for the construction of reservoir of Chamera Hydro Electric Project. The District Administration as well as the Chamera Hydro Electric Project Administration had agreed to provide employment to one of the family members of the displaced families in its meeting held on 6.7.1985. A meeting took place on 22nd February, 2002 whereby a decision was taken to constitute a High Power Committee to prepare a list of 192 displaced families for providing financial package. The High Power Committee took a decision on 6.9.2002 and accordingly a list of 192

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*No

displaced families was prepared. The Deputy Commissioner, Chamba as well as RRO, Chamba were associated and the list compiled by them of 192 families was sent to the State Government. The same list was forwarded by the State Government to the NHPC on 30.11.2002/16th December, 2002 for making the payment. The name of the petitioner figures at Sr. No. 58 of the list. He was asked by the office of the Deputy Commissioner, Chamba to complete the codal formalities vide letter dated 5.10.2004 and he was directed to appear before the authorities concerned on 13.10.2004. He had completed the formalities and had also appeared before the officers concerned. He was not released the package though the money had already been deposited by the NHPC with the State Government.

Mr. Kul Bhushan Khajuria, Advocate had strenuously argued that the land of his client measuring 8 biswas was acquired and his name was reflected at Sr. No. 58 of the list but the payment has not been released to him.

The learned Advocate General had submitted that since the petitioner's father was owner of 7-01-07 bighas of land situate in Mohal Chakloo as per entries in the Jamabandi for the year 1992-93, he was not entitled to get any package.

As far as Mr. Rajnish Manitala, Advocate appearing on behalf of respondents No. 5 and 6 is concerned, he had only submitted that so far his clients are concerned, a sum of Rs. 8.76 lakhs had already been deposited with the State Government.

I have heard the learned counsel for the parties and perused the record.

It is admitted case that the land of the petitioner was acquired for the construction of reservoir. His name is reflected at Sr. No. 58 in the

list of the displaced families prepared by the Deputy Commissioner in consultation with RRO, Chamba. He had been directed to complete the codal formalities vide letter dated 13.10.2004. He had completed all the codal formalities and also appeared before the concerned authorities. He was entitled to get the package after his name was included in the list of 192 displaced families. The only reason assigned by the respondent-State for not releasing the package was that his father is owner of the land measuring 7-01-07 bighas of land situate in Mohal Chakloo. There was no land independently owned by the petitioner in village Chakloo. The owner of the land measuring 7-01-07 bighas is petitioner's father. He may or may not inherit the land from his father. What was required to be seen by the authorities was whether his land has been acquired or not and if the same has been acquired rendering him landless, the petitioner was entitled to get the financial package of Rs. 3.00 lakh. The name of the petitioner has been included on the basis of the recommendations made by the Deputy Commissioner and RRO and that too after verifying all the facts including whether the petitioner was owner of land or not. Merely that the petitioner's father happened to be the owner of land measuring 7-01-07 in his own right will not disentitle the petitioner to get the financial package.

Accordingly the decision not to release the money to the petitioner by the competent authorities is erroneous. The Court is of the opinion that since the petitioner had been rendered landless after the acquisition of his land for the construction of reservoir, he is entitled to be included in the list of displaced families and his name could not have been struck off.

Consequently the writ petition is allowed. The respondents are directed to release a sum of Rs. 3.00 lakhs to the petitioner within a

period of 4 weeks from today. The petitioner is also held entitled to costs, which are quantified at Rs. 3,000/-.

(Rajiv Sharma), Judge

July 12, 2007

Awasthi